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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-532

13 **SCOTT ALLEN GILL**
14 **390 Milroy Rd.**
New Columbia, PA 17856
Registered Nurse License No. 577979

A C C U S A T I O N

15 Respondent.
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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about March 1, 2001, the Board of Registered Nursing issued Registered Nurse
24 License Number 577979 to Scott Allen Gill (Respondent). The Registered Nurse License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
26 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

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9. Section 2762 of the Code states in pertinent part:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:”

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“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.”

STATUTORY REGULATIONS

10. California Code of Regulations, title 16, section 1444, states in pertinent part:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.”

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

12. Respondent is subject to disciplinary action pursuant to Code sections 490, 2761(f), in conjunction with California Code of Regulations section 1444, on the grounds of unprofessional conduct, in that, Respondent was convicted of a crime substantially related to the duties, functions and qualifications of a registered nurse, that evidence, to a substantial degree, a potential unfitness

1 to practice in a manner consistent with public health, safety or welfare. The circumstances are as
2 follows:

3 a. On or about June 19, 2002, after pleading not guilty, Respondent was convicted of
4 one count of violating Military Code of Justice Article 112(a) [wrongful use of cocaine], before
5 an Military Tribunal, (Dept. of the Air Force, Headquarters Sixteenth Air Force, General Court-
6 Martial Order, No. 2). The circumstances surrounding this conviction are between April 2, 2001
7 and April 9, 2001, Respondent wrongfully used cocaine. Respondent was confined for 30 days,
8 his rank was reduced to the grade E-4, and received a bad conduct discharge. This decision was
9 affirmed on December 12, 2005.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct)**

12 13. Respondent is subject to disciplinary action pursuant to Code section 2761(a), for
13 unprofessional conduct. Complainant refers to, and by reference incorporates, the allegations set
14 forth in paragraph 12 subparagraph (a), as though set forth fully. The circumstances of additional
15 allegations are as follows:

16 a. On or about February 6, 2008, Respondent was arrested for violating vehicle code
17 sections 23152(a) [driving under the influence of alcohol] 23152(b) [blood alcohol content
18 greater than 0.08%], 12500(a) [unlicensed driver] and 4000(a) [expired registration]. On February
19 29, 2008, a hearing on this matter was held in *People v. Scott Allen Gill*, (Super. Ct., East
20 Division, Mojave Branch, 2008, No. MM060931A). Respondent failed to appear at this hearing.
21 He was charged with an additional count of violating Penal Code 853.7 for failure to appear. A
22 bench warrant for Respondent's arrest was issued. The bench warrant remains open.

23 b. On or about August 7, 2008, after pleading not guilty, Respondent was convicted of
24 one misdemeanor count of violating vehicle code section 66-8-102(d) and (e), [Aggravated
25 DWI], in the criminal proceeding entitled *State of New Mexico v. Scott Gill*, (Magistrate Ct., Cty.
26 of McKinley, 2008, M35-DR-2008-00120). The circumstances surrounding this conviction are
27 that on or about February 14, 2008, Respondent was arrested for driving under the influence of
28 intoxicating liquor, having a suspended license, expired registration and an open container of a

1 mixed alcoholic drink in his car. Respondent's blood alcohol content was 0.19% and 0.17%.
2 Respondent was ordered to serve 90 days in jail, 180 days of unsupervised probation, enroll in a
3 DWI school, install an ignition interlock, attend alcohol screening, complete 24 hours of
4 community service and pay a \$515 fine. On or about, August 14, 2008, Respondent filed a
5 Notice of Appeal in the Eleventh Judicial District Court, McKinley County, District Court No.
6 LR-2008-11-7. The appeal is currently pending.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Dangerous Use of Alcohol and Drugs)**

9 14. Respondent is subject to disciplinary action pursuant to Code section 2762(b), in that
10 Respondent used alcohol in a manner dangerous to himself and the public on February 6, 2008
11 and February 14, 2008, when he was arrested for driving under the influence of alcoholic
12 beverages. Complainant refers to, and by reference incorporates, the allegations set forth in
13 paragraph 13 subparagraphs (a) and (b), as though set forth fully.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Revoking or suspending Registered Nurse License Number 577979, issued to Scott
5 Allen Gill Scott Allen Gill.
- 6 2. Ordering Scott Allen Gill to pay the Board of Registered Nursing the reasonable costs
7 of the investigation and enforcement of this case, pursuant to Code section 125.3; and
- 8 3. Taking such other and further action as deemed necessary and proper.
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11 DATED: 4/21/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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